

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

**In the Matter of**

**E911 Requirements for IP-Enabled  
Service Providers**

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**WC Docket No. 05-196**

**COMMENTS OF THE  
NEW JERSEY BOARD OF PUBLIC UTILITIES**

**I. Introduction**

The New Jersey Board of Public Utilities (“Board”) submits the following comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) First Report and Order (“Order”) and Notice of Proposed Rulemaking (“NPRM”) issued in the above referenced docket on June 3, 2005. In its Order the FCC adopted rules requiring providers of interconnected voice over Internet Protocol (VoIP) services<sup>1</sup> to provide enhanced 911 (E911) capabilities to their customers as a standard feature of service, rather than an optional enhancement. The rules require that all interconnected VoIP providers must provide emergency operators with the call back number and location information of their customers, where the emergency operator is capable of

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<sup>1</sup> The E911 rules apply to those VoIP services that can be used to receive telephone calls that originate on the public switched telephone network (PSTN) and can be used to terminate calls to the PSTN, defined as “interconnected VoIP services.”

receiving it, by November 29, 2005.<sup>2</sup> Interconnected VoIP providers may satisfy this requirement by interconnecting indirectly through a third party such as a competitive local exchange carrier (CLEC), interconnecting directly with the Wireline E911 Network, or through any other solution that allows a provider to offer E911 service as described above.<sup>3</sup>

The rules further require interconnected VoIP service providers to provide E911 from wherever the customer is using the service, whether at home or away from home.<sup>4</sup> In its Order the FCC also noted its intention to adopt, in a future order, an advanced E911 solution that includes a method for determining the customer's location without the customer having to self report this information.<sup>5</sup>

The rules also implement new customer education and compliance reporting requirements to ensure adequate customer notice and implementation of the rules by the providers. By July 29, 2005, all interconnected VoIP providers were required to: 1) inform their customers, both new and existing, of the E911 capabilities and limitations of their service; 2) obtain and keep a record of affirmative acknowledgement of the advisory;<sup>6</sup> and 3) distribute warning stickers

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<sup>2</sup> Interconnected VoIP providers must obtain from each customer, prior to the initiation of service, the physical location at which the service will first be utilized. Furthermore, providers of interconnected VoIP services that can be utilized from more than one physical location must provide their end users one or more methods of updating information regarding the user's physical location.

<sup>3</sup> Order at ¶ 47.

<sup>4</sup> Order at ¶ 1.

<sup>5</sup> Order at ¶ 36.

<sup>6</sup> On July 26, 2005, the Enforcement Bureau issued a Public Notice noting that it would not seek enforcement, for a 30-day period, of the requirement that providers obtain affirmative acknowledgements of the required advisory, by July 29, 2005, from 100% of their subscribers, on the condition that the provider file a detailed report with the FCC by August 10, 2005 detailing the actions they have taken to meet the notice requirements.

or other appropriate labels to all subscribers to be placed on and/or near the equipment used in conjunction with the interconnected VoIP service warning them of limitations of the E911 service. The providers are also required to file compliance reports with the FCC detailing their actions to implement the rules in the Order no later than November 29, 2005.

The FCC also initiated a rulemaking to determine what additional steps it should take to ensure that providers of VoIP services that interconnect with the nation's public switched telephone network (PSTN) provide ubiquitous and reliable E911 service.<sup>7</sup> The NPRM seeks comment on how the FCC can facilitate the development of technology to automatically identify the geographic location of the portable interconnected VoIP customer, without having to rely solely on the information being supplied by the customer.<sup>8</sup>

The NPRM seeks comment on issues raised by its Order, including whether the FCC should expand the scope and requirements of its Order, such as the inclusion of other VoIP services.<sup>9</sup> The NPRM also seeks comment on the need for additional regulations to ensure the provision of the required levels of E911 service to VoIP customers, additional customer notification and acknowledgement requirements, and additional compliance reports from VoIP providers.<sup>10</sup>

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<sup>7</sup> NPRM at ¶ 56.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> NPRM at ¶ 59-60.

## II. Comments

The Board commends the FCC for its Order implementing rules to ensure that the life-saving benefits of E911 service on which wireline and wireless telephone users have come to rely are also extended to citizens who choose to communicate using interconnected VoIP services.<sup>11</sup> The Board noted the importance of resolving these issues early in the deployment of this new technology in its comments on the FCC's NPRM on IP-Enabled Services.<sup>12</sup> The rules are an appropriate first step to address the core problem of meeting the reasonable expectations of the public that interconnected VoIP services will function in the same manner as traditional landline "plain old telephone service" (POTS), and provide access to emergency services in the manner to which they have become accustomed and on which they rely. As noted by the FCC,

"If a VoIP service subscriber is able to receive calls from other VoIP service users and from telephones connected to the PSTN, and is able to place calls to other VoIP service users and to telephones connected to the PSTN, a customer reasonably could expect to be able to dial 911 using that service to access appropriate emergency services. Thus, we believe that a service that enables a customer to do everything (or nearly everything) the customer could do using an analog telephone, and more, can at least reasonably be expected and required to route 911 calls to the appropriate destination"<sup>13</sup>

As noted previously in the Board Comments, the new choices offered by VoIP should not erode or erase the relevance of aspects of the existing regulatory

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<sup>11</sup> NPRM at ¶ 56.

<sup>12</sup> Comments of the New Jersey Board of Public Utilities, In the Matter of IP-Enabled Services, Docket No. WC 04-36 (May 28, 2004). ("Board Comments")

<sup>13</sup> Order at ¶ 23.

framework, such as the expectation of access to E911 service. Customers who avail themselves of the benefits of the new technology offered by VoIP should not be required to compromise their personal safety by not having access to essential emergency services. The Board concurs with the FCC's belief that swift and vigorous enforcement of the rules is needed to avert possible life threatening circumstances that could result from the inability to access E911 services.<sup>14</sup>

In the NPRM, the FCC acknowledges the problems presented by VoIP users who take advantage of one of the central benefits of the technology, the lack of geographic restrictions.<sup>15</sup> While such portability may be beneficial for the customer's needs, it presents the dilemma of relying solely on the user for providing essential location information that must be delivered to the appropriate public safety answering point (PSAP) in an emergency. The FCC seeks comments on how it can facilitate the development of more advanced solutions to automatically locate an interconnected VoIP user without relying solely on the user in an emergency. As noted previously in the Board Comments, the portability afforded by VoIP services appears to present similar issues that the FCC faced in 1996 when it established rules requiring all CMRS carriers to implement basic 911 and E911 services.<sup>16</sup> As noted by the FCC, development and implementation of the technological changes required significant cooperative efforts from wireless and wireline providers, manufacturers, third-party providers, state and local governments, public safety authorities, and consumer interest

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<sup>14</sup> Order at ¶ 22.

<sup>15</sup> NPRM at ¶ 57.

<sup>16</sup> Order at ¶ 8.

groups.<sup>17</sup> It is likely the same type of collaborative efforts will be necessary to craft an appropriate solution that provides portable interconnected VoIP customers with reliable E911 service. The FCC should require CLECs, ILECs and VoIP providers to work toward finding solutions to confront these important public safety issues. This would be the most efficient manner to properly evaluate proposed suggestions in the NPRM, such as requiring equipment used in the provision of interconnected VoIP services to be capable of providing location information automatically.<sup>18</sup>

The NPRM seeks comment on whether the FCC should adopt additional regulations to ensure that interconnected VoIP service customers obtain the required level of E911 services, as well as more restrictive customer notification requirements relating to E911 on VoIP providers.<sup>19</sup> The FCC's rules require interconnected VoIP providers to obtain from each customer, prior to the initiation of service, the physical location at which the service will first be utilized, to be designated as the "Registered Location."<sup>20</sup> Furthermore, providers of interconnected VoIP services that can be utilized from more than one physical location must provide their end users one or more methods of updating information regarding the user's physical location.<sup>21</sup> The FCC's rules also require all providers of interconnected VoIP service to specifically advise every subscriber, both new and existing, prominently and in plain language, the circumstances under which E911 service may not be available through the

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<sup>17</sup> Order at ¶ 18.

<sup>18</sup> NPRM at ¶ 59.

<sup>19</sup> Ibid.

<sup>20</sup> Order at ¶ 46.

<sup>21</sup> Ibid.

interconnected VoIP service or may be in some way limited by comparison to traditional E911 service, as well as obtain affirmative acknowledgement of the notice by each subscriber.<sup>22</sup> This is consistent with the Board's previous comments wherein we stressed the importance of the customer being adequately informed as to the E911 capability or lack of ability of the VoIP service in order to make an informed choice in their use of the service. In light of the expected exponential growth of residential VoIP 911 calls noted in the Order, rising from 370,000 in 2004 to 3.5 million in 2006, these notice provisions are essential in ensuring customers are fully informed as to the levels of E911 service that they will be afforded, and averting possible life threatening crises in instances where a customer is unable to access 911.<sup>23</sup> Such instances could also have a chilling effect on the development of IP-enabled services such as VoIP, and the FCC's implementation of rules to address such issues at the forefront of the development of the technology will assist in expanding the deployment of such broadband services.

The NPRM also seeks comment on what role states can and should play to help implement the E911 rules adopted.<sup>24</sup> In the Board Comments, the Board urged the FCC to allow states to retain the level of flexibility needed to address state-specific conditions and local concerns. This is particularly relevant for New Jersey since, as noted by the FCC in its Order, all wireline and wireless telephone companies in New Jersey are required to provide E911 service

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<sup>22</sup> Order at ¶ 48.

<sup>23</sup> Order at ¶ 10.

<sup>24</sup> NPRM at ¶ 61.

pursuant to state law.<sup>25</sup> Thus, New Jersey residents may have a greater expectation of access to E911 service than those residents in states that do not have such a requirement. States must be provided with adequate tools to address these specific concerns in order to assist the FCC in ensuring that VoIP providers comply with the rules to ensure all customers receive adequate E911 protections.

In addition, states are most familiar with the individual wireline carriers operating in their territories and are in the most appropriate position to facilitate the ability of VoIP providers to meet the requirements under the FCC's rules that 911 calls be routed through the dedicated Wireline E911 network. As noted by the FCC, incumbent LECs are using various E911 solutions that allow VoIP providers to interconnect directly to the Wireline E911 Network through tariff, contract, or a combination thereof.<sup>26</sup> Since Verizon serves as the predominant incumbent LEC for the majority of the service areas in New Jersey, any E911 solution that will provide appropriate protections must encompass Verizon's system. As the FCC noted, Verizon is developing an E911 solution for interconnected VoIP providers that is comparable to the solution it offers for wireless E911, which will be offered in New York City beginning in summer 2005,

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<sup>25</sup> Order at n.19. See *N.J.S.A.* 52:17C-4. Enhanced 9-1-1 service.

Each telephone company providing service within the State shall provide within three years of the operative date of this act enhanced 9-1-1 service to include selective routing, automatic number identification and automatic location identification features as a tariffed service package in compliance with a timetable issued by the office with the approval of the commission. The office with the approval of the commission may extend the three-year limit if necessary.

Each wireless telephone company providing service within the State shall provide wireless enhanced 9-1-1 service pursuant to FCC wireless E9-1-1 requirements and P.L.1999, c.125 (C.52:17C-3.1 et al.).

<sup>26</sup> Order at ¶ 39.



and will be rolled out in other locations if it is successful.<sup>27</sup> Board Staff was invited as observers during the implementation of E911 services for VoIP providers in New York City and can attest that through leadership and cooperation by all parties, E911 service can be made available to all VoIP end users in a timely fashion. Staff observed no technical impediments that would cause any undue delays in timely availability of E911 service for VoIP providers wishing to connect directly or for VoIP providers connecting indirectly through a third party interconnection service provider.

The Board found no technical barriers that would prevent the delivery of E911 by VoIP providers. As of June 29, 2005 the New York City model was tested successfully and rolled out July 7, 2005 as promised by Verizon. The Board commends Verizon for its leadership in this implementation effort and commends the participant VoIP providers and CLECs for their cooperation in making this implementation timely and successful. The success of this venture is incumbent upon the states having the ability to engage in the process as described above. As the FCC acknowledged in its Order, the responsibility for implementing the efficient E911 system that exists today has rested squarely upon the shoulders of the states and localities.<sup>28</sup> States cannot continue to ensure the availability of this critical service without the ability to address individual concerns that only the states are equipped to handle.

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<sup>27</sup> Ibid.

<sup>28</sup> Order at ¶ 7.

### III. Conclusion

For all of these reasons set forth above, the Board supports the FCC in requiring swift and strict adherence to the requirements for all interconnected VoIP service providers to ensure access to E911 service to all consumers.

Respectfully submitted,

New Jersey Board of Public Utilities  
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DATED: August 15, 2005

/s/

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JEANNE M. FOX  
PRESIDENT

/s/

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FREDERICK F. BUTLER  
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/s/

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CONNIE O. HUGHES  
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